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Before the
Federal Communications Commission
Washington, D.C. 20554

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MAR 1 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the matter of)
)
Amendment of Part 90 of the) PR Docket No. 93-144 ✓
Commission's Rules To Facilitate) RM-8117, RM-8030
Future Development of SMR Systems) RM-8029
in the 800 MHz Frequency Band)
)
and)
)
Implementation of Section 309(j)) PP Docket No. 93-253
of the Communications Act-)
Competitive Bidding)
800 MHz SMR)

To: The Commission

Reply Comments of The Ericsson Corporation

The Ericsson Corporation, on behalf of itself and affiliated companies (hereinafter collectively referred to as "Ericsson"), hereby submits its reply comments in response to comments submitted in the *Further Notice of Proposed Rule Making*¹ in the above-captioned proceeding. In support thereof, Ericsson states as follows:

I. The FCC Should Not Impose Mandatory Relocation on Incumbents

The overwhelming consensus of the numerous parties that filed comments in this proceeding support the Commission's proposal to permanently grandfather incumbent 800

¹ *Amendment of Part 90 of the Commission's rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band and Implementation of Section 309(j) of the Communications Act-Competitive Bidding 800 MHz SMR*, PR Docket No. 93-144, RM-8117, RM-8030, RM-8029, PP Docket No. 93-253, FCC 94-271, ___ Rcd ___ (Released November 4, 1994) (hereinafter "FNPRM").

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MHz SMR licensees who operate in the upper 200 channels proposed for allocation on an MTA basis. Ericsson submits that the record in this proceeding clearly indicates that mandatory relocation of incumbent upper channel operators would be tantamount to mandatory disruption of their operations. Indeed, despite the fact that a few companies continue to argue for mandatory retuning or relocation, no company filing comments in this proceeding has satisfactorily demonstrated there is sufficient available 800 MHz spectrum to accomplish that goal.

II. There Is No Record To Support A Contiguous Allocation of 10 MHz For Wide-Area MTA-Based 800 MHz Systems

In its initial comments in this proceeding Ericsson asserted that there had been no demonstration that a contiguous allocation for MTA-based 800 MHz SMR systems was necessary, especially since the Commission's rules already allow SMRs to create wide-area systems in the 800 MHz SMR band.² Many parties filing comments in the FNPRM supported this position. In fact, the majority of comments submitted in opposition to the Commission's allocation scheme focused on the proposal being an economic necessity for Nextel to effectively compete with cellular and PCS licensees.³ Ericsson agrees with those parties who assert that the FCC should not amend its rules merely to provide economic relief to a limited number of licensees. This is especially true in the 800 MHz SMR band where the end result of the Commission's proposal would be to severely disrupt existing 800 MHz SMR operations. Accordingly, Ericsson reiterates its opposition to the

² See, Comments of The Ericsson Corporation, p. 2. See also, Fleet Call, Inc., *Memorandum Opinion and Order*, 6 FCC Rcd 1522, *recon dismissed*, 6 FCC Rcd 6989 (1991).

³ Motorola, Inc., a supplier to Nextel, filed comments stating that its MIRS technology "...has the ability to operate on any SMR channels whether or not contiguous." Comments of Motorola, Inc. at p. 4. Thus, the need for contiguous spectrum is clearly not a technical issue.

Commission's general proposal to allocate the upper 200 800 MHz SMR channels for MTA-wide licensing.

III. General Category Channels Should Not Be Reassigned For SMR Use

Numerous parties filing comments in the FNPRM opposed the Commission's proposal to reassign the General Pool categories for SMR-only use. Ericsson fully agrees with the comments expressing the view that General category channels should not be reassigned. It is critical in an already crowded band to ensure that all entities eligible for 800 MHz channels have equitable access to sufficient channels for their operations.

IV. Miscellaneous Issues

As set forth above, Ericsson does not believe the Commission's wide-area proposal serves the public interest due to the fact that thousands of existing licensees would be adversely affected thereby. However, to the extent the FCC allocates the upper 200 channels of 800 MHz SMR spectrum for wide-area systems on an MTA, BTA or BEA basis, Ericsson agrees with those parties who asserted that eligibility for such licenses should not be limited only to those entities already operating wide-area 800 MHz systems. To do otherwise would be inequitable to existing non-wide-area licensees as well as potential new entrants. Principles of fair and open competition demand that all entities who are qualified to hold such licenses are able to vie for such licenses.

In addition, Ericsson agrees with those parties who support the BEA as the proper geographic size for 800 MHz wide-area licenses. It believes the BEA more accurately reflects the natural scope of SMR operations.

Lastly, Ericsson submits that a licensing method other than competitive bidding should be used to allocate MTA, BTA or BEA wide-area licenses. This is due to the fact that in the already heavily licensed 800 MHz SMR band, auctions or other competitive bidding methods will not adequately protect the interests of smaller entities who may wish to participate in the process.

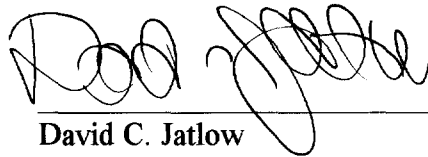
V. Conclusion

As stated in its initial comments in the FNPRM, Ericsson is not opposed to the concept of licensing CMRS entities on an MTA, BTA or BEA basis. It only opposes the concept in the specific context of the 800 MHz SMR band due to the significant number of small businesses currently operating in the band who would be adversely affected by the Commission's proposal. Rather than cause significant disruption to these small business entities, Ericsson believes the more prudent regulatory decision would be to make no changes to the 800 MHz band. Maintaining the status quo with respect to the 800 MHz band will not have any adverse impact on competition in view of currently licensed or soon to be licensed spectrum for a wide variety of real-time, two-way voice services,

including but not limited to, the two existing cellular carriers in each market; up to 6 new PCS licensees; and at least three LEO satellite licensees.

Respectfully submitted,

The Ericsson Corporation

A handwritten signature in black ink, appearing to read "David C. Jatlow", is written over a horizontal line.

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March 1, 1995

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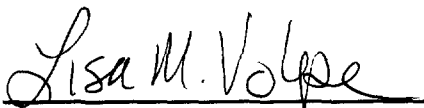
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